Reply Comments of the

American Foundation for the Blind
1660 L St., NW, Ste 513
Washington, DC 20036

Re: CG Docket No. 10-145.

Our review of the comments initially filed by several industry groups validates our general sense that, to put it pejoratively, "industry still doesn't get it." For instance, the AFB Sweet 16 is used as a framework to organize the bulk of comments offered by the Telecommunications Industry Association of America. As the organization which developed this assessment tool, AFB is pleased to observe that it has been recognized by industry as of value. We bring to the Commission's attention several important requirements necessary for the correct and accurate use of the tool.

The individual items in the list of 16 are not coequal with respect to one another. That is to say, that a device which satisfies ten criteria is not necessarily more accessible than another device which satisfies only eight. There is a hierarchical order to the criteria.
Item two, "Voice Output" is a threshold requirement. If a phone lacks the technology to satisfy this criterion, then it is necessarily unable to satisfy any of the subsequent items on the checklist. The subordinate items, such as Roaming Indicator, Message Indicator, Phone Book, etc are pertinent only in the context of voice output.
The objective is an understanding of the kinds of information which will be made available by speech, not a simple recounting of whether a phone has them.

A quick perusal of appendix B, offered by the TIAA, would lead the casual observer to incorrectly conclude that many phones are remarkably accessible. The Nokia 6350 is a case in point. Ten of the 16 criteria in its entry in the appendix are checked. Of the remaining six, number two is the lynch pin, since the 6350 offers no voice output, nor does it facilitate any third party accessibility software. In short, when AFB properly applied the Sweet 16, taking into account a "No" for item two, we reach the correct conclusion that the Nokia 6350 is totally inaccessible.

The AFB analysis of Appendix B reduces the number of phones which are accessible from the 12 included to six, which satisfy requirement two, at least in part. Of these six three are identified as providing "Basic" Voice Output." AFB has no provision for specifying this partial value or for the "Advanced" entry for two other devices. Only one of the 12 phones described in the Appendix answers criterion two satisfactorily and is in fact accessible.

This misapplication of our criteria occurs across all three categories of phones described in Appendix

B. While we do not believe that anyone is attempting to intentionally mislead the Commission, the TIAA's own exhibit provides incontrovertible evidence speaking to the necessity of increased involvement of the Commission. It might be reasonable to accept that there was a misunderstanding of the AFB Sweet 16 in a single instance of incorrect analysis. The real problem, which the Commission needs to correct, is the impact of the wide promulgation of that same analysis within industry and to the public. Based on industries own evidence, the overwhelming majority of phones which they say are accessible simply are not.

The Sweet 16 schema was developed in 2003. In terms of the rapid rate of progress in the mobile arena that makes them ancient history. The average mobile phone of today is vastly more capable than those for which the Sweet 16 was developed. Specifically, operating systems and marketing ecosystems which encourage the use of applications typify the use pattern of both mid-priced and advanced devices. With few exceptions customers who require alternative screen access such as comprehensive voice output and/or magnification have been completely left behind.

The inescapable evidence, provided by the TIAA, that only one out of
12 devices which are purportedly accessible only serves to buttress AFB's comments initially responding to this docket, submitted on September 13.

Moreover, industry offers the opinion that providing accessibility of phones in the basic category would transform those phones into mid-level or advanced devices. No evidence exists to substantiate this notion. Accessibility is a facilitative technique or process which renders the features of a specific device in alternate form which makes that device equally useable. Accessibility is not a separate or discrete function; rather it can be thought of as an alternative to the screen, not a new feature.

The complexity of accessibility is discussed throughout the several comments provided by industry. While it is true that the mobile communications market and the technology supporting the mobile ecosystem are very complex, there is nothing unique in either the level of complexity of accessibility or its dimensions. Satisfying customer service needs pertaining to accessibility through specialized offices, such as the one which AT&T has successfully established demonstrates the achievability of this objective. The technical details of device and software design which provide accessibility are well known. The several operating systems which support comprehensive third party access applications illustrate this point. Complexity is a reality of the mobile industry not a factor which creates actual barriers to achieving accessibility.

In closing, we want to articulate for the record our deep disappointment in industry's persistent assertions that remarkable innovation has occurred to ensure accessibility of mobile phones and that we should essentially congratulate them for their efforts. The truth is that after fifteen years living with a federal requirement that mobile phones be accessible to people who are blind or visually impaired,

only one device, the iPhone, provides such access out of the box and at no additional cost to the consumer with a disability.
The two principal strategies that industry has used over the years to claim compliance with the section 255 obligations are: 1) as painfully recounted in Sprint's comments, the implementation of half measures and partial/incomplete solutions that ultimately do not provide the consumer with vision loss access to the content being displayed on screen; and 2) reliance by industry on the availability of expensive third party software that consumers can obtain on their own to make up for the deficiencies in accessibility of the phones they have already purchased. Whatever this is, it is not a track record of widespread innovation and compliance by industry.

Particularly with respect to the availability of third party software, what industry has done is let others do homework for which industry wants to take credit. But while industry takes credit for the access work of others, the consumer with a disability still pays extra for the privilege of using phone features they thought they had already purchased. Surely we can do better. Indeed, expecting consumers with disabilities to pay additional costs to enjoy accessible telecommunications flies directly in the face of the Communications Act's Title II nondiscrimination objectives. While some in industry do subsidize the cost of third party access solutions, partially carrying the cost for consumers, such underwriting only slightly lessens the disparate treatment; it does not eliminate it.

We therefore strongly encourage the Commission to make prompt and meaningful use of all enforcement mechanisms at the Commission's disposal to achieve what was and remains the fundamental objective of section 255, the transformation of America's telecommunications equipment and service markets to allow people with disabilities a full array of accessible choices at no additional cost. The evidence of the last fifteen years shows that doing so is more than readily achievable; it is imperative.